

CITY OF HOMER
HOMER, ALASKA

ORDINANCE NO. 87-22

AN ORDINANCE OF THE CITY OF HOMER, ALASKA, AMENDING ORDINANCE NO. 87-18, TO MAKE CERTAIN TECHNICAL CHANGES AS AUTHORIZED THEREIN AND RATIFYING, CONFIRMING AND RE-ADOPTING ORDINANCE NO. 87-18.

WHEREAS, the City Council of the City of Homer, Alaska, on August 10, 1987, finally approved Ordinance No. 87-18, following a public hearing thereon, notice of which was published on July 23, 1987 and July 30, 1987; and

WHEREAS, Ordinance No. 87-18 provided for the issuance and sale of \$1,030,000 of Municipal Utility System Sewer Revenue Bonds, 1987 Series A of the City (the "1987 Bonds"), for the purposes specified therein, the final terms of which were to be established by resolution; and

WHEREAS, the City has been negotiating with Boettcher & Company, Inc., Anchorage, Alaska, for the purchase of the 1987 Bonds, under the terms specified in said Ordinance No. 87-18, and Boettcher & Company, Inc. has advised that certain terms within said Ordinance No. 87-18 are not necessary or advisable in connection with the marketing of the 1987 Bonds; and

WHEREAS, as underwriter of the 1987 Bonds, Boettcher & Company, Inc. has undertaken to market the 1987 Bonds under the terms of Ordinance No. 87-18, as amended by this amendatory ordinance;

NOW, THEREFORE, THE CITY OF HOMER, ALASKA, ORDAINS, as follows:

Section 1. Section 3.2 of Ordinance No. 87-18 is hereby amended to read as follows (additions are underscored and deletions are bracketed):

SECTION 3.2. Authorization of 1987 Bonds. For the purpose of financing the acquisition and construction of additions and improvements to the System there is hereby authorized to be issued \$1,030,000 aggregate principal amount of Municipal Utility System Sewer Revenue Bonds, 1987 Series A (the "1987 Bonds") which shall bear interest from their date at such rates per annum and shall mature on October [June] 1 of such years and in such amounts [and in such aggregate principal amount] as shall be fixed by resolution of the Council adopted after final passage of this Ordinance.

Section 2. Section 3.3 of Ordinance No. 87-18 is hereby amended to read as follows (additions are underscored and deletions are bracketed):

SECTION 3.3. Additional Provisions of 1987 Bonds. The 1987 Bonds shall be dated October 15 [August 1], 1987, shall be fully registered as to both principal and interest, shall be in denominations of \$5,000 or any integral multiple thereof, provided that no 1987 Bond shall represent more than one maturity, and shall be numbered separately in such manner

and with any additional designation as the Registrar deems necessary for purposes of identification.

Both principal of and interest on the 1987 Bonds shall be payable in lawful money of the United States of America. Interest shall be paid by check or draft on the date such interest is due to the registered owner of record who is as of the fifteenth day of the calendar month next preceding the applicable interest payment date, recorded as the owner on the books of registration kept by the Registrar. Principal of the 1987 Bonds, at maturity or when otherwise due, shall be payable upon due presentment and surrender of the Bonds at the office of the Registrar. The principal of and interest on the 1987 Bonds shall be payable from the Bond Fund.

The 1987 Bonds shall bear interest from their dated date or from the most recent date to which interest has been paid or duly provided for.

Interest on the 1987 Bonds shall be payable semiannually on April [~~June~~] 1 and October [~~December~~] 1 of each year, beginning October [~~June~~] 1, 1988.

The Bond Register shall be maintained by the Registrar, and shall contain the name and mailing address of the registered owner or owners of each 1987 Bond or nominee of such registered owner or owners and the principal amount and number of 1987 Bonds held by each registered owner or nominee.

Section 3. Section 7.1(B) of Ordinance No. 87-18 is hereby amended to read as follows (additions are underscored and deletions are bracketed):

B. The Revenues of the City shall be used only for the following purposes and in the following order of priority:

(1) All revenues paid into the Revenue Fund shall first be credited to the General Account therein and applied as follows:

(i) to make all payments required to be made into the Interest Account in the Bond Fund for the payment of accrued interest on the next interest payment date;

(ii) to make all payments required to be made into the Principal Account in the Bond Fund for the payment of the principal amount of Serial Bonds next coming due, and into the Bond Retirement Account in the Bond Fund for the mandatory redemption of Term Bonds;

~~(iii) to make all payments required to be made pursuant to a reimbursement agreement in connection with a Qualified Letter of Credit, Qualified Insurance or other equivalent credit facility;~~

(iii) ~~(iv)~~ to make all payments required to be made into the Reserve Account in the Bond Fund created to secure the payment of the Bonds; and

(iv) ~~(v)~~ to pay Operating Expenses and to maintain a balance in the Contingency and Replacement

Fund sufficient in amount to enable the City to continuously meet Operating Expenses on a current basis.

(v) to make all payments required to be made into any special fund or account created to pay or secure the payment of the principal of and interest on any revenue bonds, warrants or other revenue obligations of the City having a lien upon Revenues and moneys in the Revenue Fund and accounts therein junior and inferior to the lien thereon for the payment of the principal of and interest on the Bonds.

(2) Subject to the provisions of Section 8.1.A, after all of the above payments and credits have been made, amounts remaining in the General Account may be used for any other lawful purpose of the City related to the System.

(3) Moneys in the Contingency and Replacement Account shall be used from time to time to make up any deficiencies in the Reserve Account, and such moneys in the Contingency and Replacement Account are hereby pledged as additional payments to the Bond Fund to the extent required for any such deficiencies. Moneys in the Contingency and Replacement Account may be used to make additions, betterments, extensions, renewals, replacements and other capital improvements to the System, to retire Bonds, or may be used by the City for any other lawful purpose of the City related to the System. There shall be maintained in the Contingency

and Replacement Account a reserve sufficient to enable the City to meet operating expenses on a current basis.

Nothing contained in this Section 7.1 shall be construed to require the deposit into the Revenue Fund of any of the revenues, income, receipts or other moneys of the City derived by the City through the ownership or operation of any separate utility system heretofore or hereafter created or established from funds other than the proceeds of Bonds.

Section 4. Section 7.2(E) of Ordinance No. 87-18 is hereby amended to read as follows (additions are underscored and deletions are bracketed):

E. In the event that there shall be a deficiency in the Interest Account, Principal Account or Bond Retirement Account in the Bond Fund, the City shall promptly make up such deficiency from the Reserve Account by the withdrawal of cash therefrom for that purpose and by the sale or redemption of obligations held in the Reserve Account, if necessary, in such amounts as will provide cash in the Reserve Account sufficient to make up any such deficiency [~~and if a deficiency still exists immediately prior to an interest payment date and after withdrawal of cash, the City shall then draw from any Qualified Letter of Credit, Qualified Insurance, or other equivalent credit facility in sufficient amount to make up the deficiency.~~ Such draw shall be made at such times and under such conditions as the agreement for such Qualified Letter of Credit or Qualified Insurance shall provide]. The

City covenants and agrees that any deficiency created in the Reserve Account by reason of any withdrawal therefrom for payment into the Interest Account, Principal Account or Bond Retirement Account shall be made up from moneys in the Revenue Fund first available after providing [and then] for the required payments into such Interest, Principal and Bond Retirement Accounts.

Moneys in the Bond Fund shall be transmitted to the Registrar and Paying Agents in amounts sufficient to meet the maturing installments of principal of, premium, if any, and interest on the Bonds when due. All moneys remaining in the Bond Fund after provision for the payment in full of the principal of, premium, if any, and interest on the Bonds shall be returned to the Revenue Fund.

[The City shall have complete authority and responsibility to draw upon any Qualified Letter of Credit, Qualified Insurance or other equivalent credit facility in the priority listed above and in an amount sufficient to provide for payments from the Interest Account, Principal Account or Bond Retirement Account.]

The Bond Fund shall be drawn upon solely for the purpose of paying the principal of, premium, if any, and interest on the Bonds. Moneys set aside from time to time with the Paying Agents for such payment shall be held in trust for the owners of the Bonds in respect of which the same shall have been so set aside. Until so set aside, all moneys in the

Bond Fund shall be held in trust for the benefit of the owners of all Bonds at the time outstanding equally and ratably.

Section 5. The first paragraph of Section 8.3 of Ordinance No. 87-18 is hereby amended to read as follows (additions are underscored and deletions are bracketed):

The City will also establish, maintain and collect rates and charges which shall be adequate to provide in each Fiscal Year Net Revenues in an amount equal to at least 1.30 [~~1.35~~] times the maximum Annual Debt Service on the then outstanding Bonds in any succeeding Fiscal Year.

Section 6. The following provisions of Ordinance No. 87-18 are hereby repealed:

(a) Definitions numbered (19) "Qualified Letter of Credit" and (21) "Qualified Insurance" within Section 1.1;

(b) Section 4.3;

(c) Second paragraph of Section 6.2;

(d) Final paragraph of Section 7.2(D);

(e) Section 8.15;

(f) Article X; and

(g) Article XI.

Section 7. The form of Bond in Section 12.2 of Ordinance No. 87-18 shall be amended to conform with any changes required by this amendatory ordinance.

Section 8. As amended by this amendatory ordinance, Ordinance No. 87-18 is hereby re-adopted, ratified and confirmed in full.

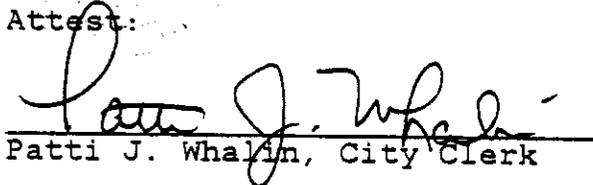
Section 9. This amendatory ordinance shall take effect at 12:01 a.m. on the date immediately following passage, as required by law and the Homer City Code.

Read for the first time at a regular meeting of the City Council, held on September 28, 1987, and read for the second time and finally approved by the City Council of the City of Homer, Alaska, on October 12, 1987.

CITY OF HOMER, ALASKA


Mayor

Attest:


Patti J. Whalin, City Clerk

Approved as to form:


City Attorney

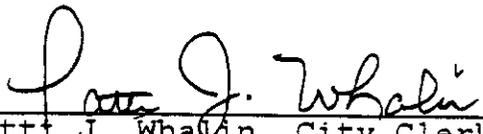
CERTIFICATE

I, the undersigned, City Clerk of the City of Homer, Alaska, and keeper of the records of the City Council of said City (herein called the "Council"), DO HEREBY CERTIFY:

1. That the attached is a true and correct copy of Ordinance No. 87-22 (herein called the "Ordinance") of the Council, introduced at a regular meeting thereof held on September 28, 1987 and finally passed at a regular meeting thereof held on the 12th day of October, 1987.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been fully fulfilled, carried out, and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 13 day of October, 1987.


Patti J. Whalin, City Clerk